

LONDON NOISES, DISTURBING SLEEP.

BY

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LONDON NOISES, DISTURBING SLEEP.

IF a neighbour keep fowls, which may crow at any hour of the night; if another should do the same, or a third let a Newfoundland dog loose in his yard to bark throughout the night; a fourth keep a kicking horse in the adjoining stable, and a fifth a bellowing cow, it may readily be believed that such nuisances would so disturb the rest of those persons who sleep in the back rooms of houses, as to interfere with their health, and that they would be likely to complain to the Medical Officer of Health. In fact, the half of each neighbour's house would be practically uninhabitable at night, unless the occupiers were very sound sleepers. The Medical Officer has no power in such cases; but if he act up to the spirit of his office, he would try to abate by persuasion all nuisances likely to injure the public health, even at the risk of giving offence to some persons. Besides the preceding noises, the late revels at some public-houses are great disturbers of repose. It is true, that by a new Act, these places must be closed, except on special occasions, at 2 o'clock in the morning; but until that time persons may behave there uproariously without the police being able to prevent them. Similar complaints to those now described have been made to me since my appointment in 1856, about which time the unearthly crow of Cochinchina fowls was more frequently heard. It seemed natural, when new sanitary laws had come into operation, that people should appeal to the Medical Officer in every matter that concerned their health. Now the nuisance arising from the noise of fowls is sometimes so great that persons cannot sleep in their vicinity. They will often begin crowing in the darkest night, say about eleven o'clock, when roused by the barking of a dog, or a railway whistle; and in

cases of illness they become positively injurious. Let a patient take an opiate when sleep is of vital importance to his recovery, and be suddenly awoke by the crowing of a cock, delirium might ensue; and this I have known to happen. No doubt frivolous complaints are sometimes mixed up with important ones; as when a neighbour of Lord Palmerston's complained to me of a cow-yard, a slaughter-house, cock-crowing, and the nightly noise of the Premier's coach-house bell! It is, however, to be hoped that no one will be angry when the evil of London noises is exposed, and that all will act on the principle of "so using their own as not to injure others;" for it appears to me rather hard that people should be crowded almost out of their houses, or that they should be enticed into taking such as are scarcely ever free from noise or other nuisances, owing to the proximity of stables. A gentleman told me that a lady residing next door had complained to him of the noise caused by his fowls, and, as she expected to be shortly confined, she hoped that they would be removed. He calmly replied that she had better be confined in the front of the house, which advice she took.

Sleep, "nature's sweet restorer," is so necessary for the preservation of health, that it is worth striving for. A gentleman took a house in a new and fashionable neighbourhood, which he thought was remarkably quiet. He signed his lease, and went to bed. No sooner did his ear touch the pillow, than a sound was heard. What could it be? It continued—knock, knock, knock, and kept him awake for many hours, until wearied out, he fell asleep. The next morning he consoled himself by thinking that some exceptional cause had disturbed his first night's rest. The noise, however, continued, and arose

from a kicking horse in a stable built too close to the house ; and the occupier with his family endured the annoyance, not only the next night, but for several years before he could get rid of it.

A third back room is often built adjoining or between stables, and, as the laws of sound are invariable, any noise from them would vibrate quickly through every wall of the house and all the solid bodies, like bedsteads, which it contained.

Another gentleman complained of a similar nuisance, commencing about 2 or 4 o'clock in the morning, and sent a policeman to ascertain the reason, who told him that it was produced by a kicking horse in an adjoining stable. He trudged off to see the animal, and told the groom the purport of his visit. "Quite true," said the groom, "he makes a great noise, on account of which he is called 'a scraper.' He belongs to Colonel ———, and he wakes me up at 4 in the morning when he wants his breakfast, and will not cease making a noise until I give it to him." The Colonel is applied to, who, being a gentleman, writes that absence from town has prevented his calling, and regrets the annoyance caused by the horse ; but he has directed the groom to try all he can to prevent its recurrence, and should this fail, he will sell the horse. A generous colonel this, and full of sympathy, who not only makes a promise, but fulfils it. Scraper's irritable leg is put under mild restraint, the stall is partially padded, and a kind of shoe fitted to the hoof. But Scraper, too cunning to be controlled, managed to destroy all the padding, so that the noise became again intolerable. At length, the Colonel, finding there was no remedy, sold Scraper to a medical man, whose brougham he soon smashed, probably not liking a new

driver, who, perhaps, would not rise at 4 o'clock in the morning to give him his breakfast.

I was consulted by a medical man lately about building a stable as close to his own house as that occupied by Scraper was to the adjoining house; but, on giving him the result of my experience, he was much obliged, kept his money, and remains undisturbed at night, except professionally. Sometimes a butcher may find it convenient to put sheep into stables, where they baa day and night, waiting to be slaughtered, or a few beasts may be added to enliven the scene by bellowing until they cease to exist. Perhaps some of the stables may be let to night cabmen, who start at night, and return sufficiently early in the morning to wake some persons, giving them an opportunity of seeing the rising sun.

The owner of much house property, including stables, used to talk to me, and chuckle often about the amount of interest he obtained from a stable occupied by a cabman. "I cannot conceive," he exclaimed, "how a man, his wife, and so many children, can live in such a small place; but," he added, "it pays me well." I was told soon after, that infectious disease had appeared, when I found a cess-pool, a dilapidated closet, and a ricketty ladder, through which the children might break their necks while descending from the loft.

The poet Gay wrote a poem called *Trivia; or, the Art of Walking the Streets of London*, and a very useful book might be published on the "Art of Avoiding some London Noises and Nuisances;" meanwhile, this little pamphlet may caution an unwary reader, before taking a house, to carefully examine the surroundings; otherwise many years of his life may be embittered, or he may run the risk of losing it through existing evils.

LONDON NOISES.

From the "TIMES," July 25th, 1864.

TO THE EDITOR OF THE "TIMES."

SIR,—The Legislature, urged on by the complaints of Mr. Bass, M.P., and Mr. Babbage, has passed an Act to lessen the annoyance from organ-grinders, but sounds still exist which are often brought before the notice of the Medical Officers of Health, equally calculated to disturb, not only the comfort, but also the health of the ratepayers, yet the former cannot interfere. In explanation I may relate a few examples out of many. I was conversing with a medical friend at his residence in Belgravia, when a literary gentleman rushed into the room, watch in hand, and complained bitterly of the noise from some Cochinchina fowls which had crowed so many times (mentioning the number) in so many minutes. He further stated that my friend's coachman, whose stables were behind his house, kept the fowls, and that he himself had recently erected a study, but that it was useless to follow his literary occupation unless the fowls were removed. This gentleman told me afterwards that he was compelled to buy up fowls in order to get rid of them. Another person subsequently complained that he could not sleep after 2 o'clock in the morning, in consequence of the loud crowing of fowls, and threatened to poison them. A gentleman kept fowls and ducks in a covered verandah attached to the back drawing-room window; here the nuisance became so dangerous to health from neglect, that I was able to prevent it. A vestryman loudly complained to me many months ago, and again the other day, of a cow and fowls being kept in a stable behind his

house, which disturbed his sleep so much as to interfere with his health. Now, as the owner of the cow does not sell milk, I cannot help the complainant. There are many single cows so kept in Belgravia, and they say that a lonely cow is much more noisy than when with others. I have certainly heard the cow making a terrible noise. These complaints may appear frivolous to those who do not suffer from the causes, but when medical men find sick patients, anxious to be perfectly quiet, or healthy persons prevented from sleeping after 2 o'clock in the morning by the crowing of cocks in Belgravia, where the railway whistle and the goods night train contribute their share of noise, it is time to appeal to public opinion, hoping, that if the Legislature should not be able to provide a remedy, Mr. Oophilos may in charity give up his weakness for eggs newly laid on his own premises, in a place so overcrowded as London, or that his neighbour, who boasts of his "everlasting layers," the cocks being everlasting crows, may do so likewise.

Your faithful Servant,

C. J. B. ALDIS, M.D., CANTAB,

*Medical Officer of Health to St. George's,
Hanover-square.*

1, Chester-terrace, Chester-square, S.W., July 23.

Upon the publication of this letter in the "*Times*," I received letters containing further complaints of the same nature. Medical men also were glad that I had "encountered the cocks,"—one, in large practice, asked whether I had ever experienced them, for they were "dreadful animals." The following letter came from a benevolent lady:—

13, BEDFORD-PLACE, W.C.

July 25th.

DEAR SIR,—I am rejoiced to see that you have exposed the intolerable annoyance of the crowing cocks; it is singular that I said only yesterday I would write about it if there were any hopes of doing good. My rooms at the back would be perfectly quiet but for this nuisance in the mews.—I assure you yesterday two cocks continued answering each other from *before* daylight, without one moment's intermission, and sleeping of course with the windows open, sleep was impossible. I could not help thinking for delicate or nervous persons it was enough to cause a fever, but for one in health to be kept awake as I was, was disagreeable enough. I thought it had been proved that no such annoyance could be legally continued if complained of.

Yours truly,

L. TWINING.

I have recently been informed that a gentleman kept five bull dogs in a drawing room in my district, which, from the nuisance they caused, were reduced to two.

The following Leaders from the "*Standard*" and the "*London Review*," have been abbreviated:—

Leader from the "STANDARD," July 27th, 1864.

If the principle of the Street Music Bill is to be fairly carried out, fresh enactments must follow close upon its heels, each designed to deal with some particular description of noise. Judging from the zeal with which Mr.

Bass's Bill was pushed through Parliament, it might have been supposed that the success of this much-debated measure was nothing less than a great and decisive victory. Henceforth order was to reign in London. Mr. Babbage was to have a testimonial and Mr. Bass a statue. From the date of the new law a reign of peace was to commence in the metropolis of the empire. The great disturbers of our quiet were to be effectually silenced, and London was to become a Sybarita. It would seem, however, that the heroes of this social struggle have merely captured the outworks, while the citadel yet remains to be conquered. In other words, they have dealt with the lesser evil and neglected the greater. Organs and German bands are agreeable to some people; but there are certain noises which are agreeable to nobody. In vain will it be that irascible mortals shall henceforth take part in the apprehension, prosecution, and imprisonment of wandering minstrels, if noises far more discordant are still to characterise, not only the day, but also the night. Belgravia is still in agonies. St. George's, Hanover-square, yet writhes in grievous torment. Babbage and Bass must buckle on their armour for a fresh encounter. The Medical Officer of Health, for the parish just mentioned, has addressed a letter to a contemporary, complaining that "sounds still exist." So they do, no doubt, and so they will continue to do, despite any Act of Parliament to the contrary. Our legislators have commenced with the suppression of music; but discord yet prevails. Cows will bellow, cocks will crow, dogs will bark, and donkeys bray, so long as such animals are allowed to exist. If we can keep these noisy creatures at a respectful distance from our dwellings it will be well for our comfort; but the Street Music Bill will afford us no help for such a purpose.

This measure deals with music—not with noise. A thousand dogs may yelp, or a thousand donkeys bray, at the Agricultural Hall, and exasperated Islington may protest in vain. The solitary fiddler may be compelled to “move off,” but your neighbour’s fowls may cackle and crow under your bed-room window, and what can you do? Let us hear what St. George’s, Hanover-square, has to say on the subject. Dr. Aldis, the official gentleman to whom we have alluded, asserts that the “sounds” which the Music Bill will still allow to exist, are of a nature “calculated to disturb not only the comfort, but also the health of the ratepayers.” The latter complain to the Medical Officers appointed under the Metropolis Local Management Act; but these functionaries, though deeply sympathising with the aggrieved individuals, “cannot interfere.” Dr. Aldis adduces “a few examples,” which he intimates are only a few “out of many.” There is a literary gentleman in Belgravia, whose study happens to be in proximity to a hen-roost, where an enterprising coachman keeps a stock of Cochin-China fowls. Dr. Aldis was conversing with the coachman’s master, at the residence of the latter, when the literary gentleman rushed into the room, watch in hand, and complained that the aforesaid fowls had crowed so many times in a certain number of minutes. Literary pursuits were out of the question, and the gentleman declared that either the study or the fowl-house must be given up. Dr. Aldis’s friend being a medical man, we trust the latter has seen the propriety of issuing such an injunction to the coachman as shall prevent the continuation of this barbarous nuisance. But we are rather in doubt on the point, inasmuch as we are told that the “literary gentleman” afterwards informed Dr. Aldis that he was “compelled to buy up fowls in order to get

rid of them." The hint, perhaps, may not be lost on speculative coachmen and grooms, whose masters' stables may happen to be conveniently situated for annoying "literary gentlemen" in the neighbourhood. But in another instance the sufferer was less complacent. The fowls attached to some adjacent premises woke him up at 2 o'clock in the morning, and he "threatened to poison them." A case is mentioned—whether or not identical with the last is scarcely clear—in which a gentleman kept fowls and ducks in a covered verandah attached to his back drawing-room window. The inventor of this ingenious contrivance, however, got entangled in the meshes of the law. Through lack of the necessary cleanliness the fowls became a nuisance injurious to health. There is nothing like a sanitary law for walking into a man's back drawing-room. The Medical Officer in this case, either took proceedings or threatened to do so, and the verandah was cleared of its noisy occupants.

But cows as well as fowls are fatal to the public peace. Says Dr. Aldis:—"A vestryman loudly complained to me many months ago, and again the other day, of a cow and fowls being kept in a stable behind his house, which disturbed his sleep so much as to interfere with his health." Here, again, the ingenuity of the Medical Officer is set to work. The obnoxious animals emit no effluvium injurious to health; but if the owner of the cow would only take to selling milk, then the sanitary guardian of the parish could "help the complainant." But we presume the owner of the cow disdains to sell his lactean treasure, and the lowing of the cow continues unaffected by Act of Parliament. Nor is this an exceptional case. Dr. Aldis says:—"There are many single cows so kept in Belgravia, and they say that a lonely cow is much more

“noisy than when with others.” On this alleged fact in natural history, the medical authority remarks, in reference to the cow in the stable—“I have certainly heard the cow making a terrible noise.” And there are “many” such in Belgravia. Can the opponents of street music be aware that these animal “organs” are disturbing the daily studies and the nocturnal slumbers of the gentility which resides in the fashionable quarters of London? Will Belgravia be thankful for the abolition of organ-men while cows are lowing and cocks are crowing in the immediate rear of the dwelling-houses, making sleep impossible after 2 a.m., and driving “literary gentlemen” into a state of frenzy! An organ or a German band will only stay for a time, and these creators of “sound” are quiet during the night. But who can be answerable for the eccentricities of cows and Cochins? Certain cocks—as Dr. Aldis intimates—are “everlasting crowers.” The padrones have not yet applied perpetual motion to the grinding of an organ, and we cannot but think that even a hurdy-gurdy is a trifle more tolerable than the chorus of a hen-roost and a cow-shed.

From the “LONDON REVIEW,” July 30th, 1864.

THE COW AND THE COCK.

The triumphant success of Mr. Bass's bill to relieve Mr. Babbage from Italian organ-grinders has given new life to all persons of susceptible nerves. A medical gentleman has written to the “*Times*” to say that there are other noises as objectionable as the noise of hurdy-gurdies, which ought as clearly to be suppressed. He has taken two somewhat singular examples. Not long ago a literary gentleman in

Belgravia rushed into the room where he was conversing, watch in hand, and complained bitterly of some Cochinchina fowls which had just crowed an unconscionable number of times in so many given minutes. They belonged to the coachman next door, and their unseasonable genius for rapid crowing had rendered the literary gentleman's study all but uninhabitable. Of all birds, one might have imagined that the cock was one which gave the least trouble in the metropolis. Early risers in London are oftener roused by the matutinal policeman than by the matutinal fowl; and if cocks are at all necessary to the existence of fresh eggs, appearances, at all events, are against the theory that cocks haunt either the City or the West-end in objectionable numbers. It ought, therefore, to be some consolation to the literary gentleman to feel that cocks under his study-window implied eggs for breakfast somewhere in the vicinity; and a generous soul would have sacrificed a few minutes of repose for the sake of knowing that Cochinchina was contributing something to the comfort of the family next door. The country is said to be the place for poets. From the time when Virgil sang of rural pleasures till the present, probably no votary of literature has ever gone so far as to complain of the town for being in one important particular somewhat like the country. It is plain that the literary gentleman has neither been born in Arcadia, nor ever slept upon Parnassus. Minerva's owl, put to flight by the presence of the cock, is an event at which every poet, from Hesiod downwards, would laugh outright. Any author of genius would have considered proximity to even one stray cock as a sort of healthy literary irritation, calculated to recall every kind of poetical association, from Horace's *Sabine Farm* down to Gray's *Elegy*. The cock is a far more enlivening idea than the cockney. Dr. Johnson loved the latter, but the Muses

would be unanimously in favour of the former. Even Mr. Babbage himself—little affinity as there is between the calculating machine and poetry of any description—could not but be all the better for an occasional crow. The medical gentleman who writes to the "*Times*," and his literary friend, are of a different opinion. The author cannot abide a sound which interferes with the flow of his ideas and the movement of his pen. The medical gentleman goes farther, and thinks that the sound is prejudicial to health. In humble imitation, we presume, of Socrates, he would sacrifice the cock to Æsculapius.

The medical gentleman's story of the cock would not be perfect if it did not contain a story of a cow also. It is fortunate he did not live in the days of Tristram Shandy: he would have fallen under Yorrick's notice as a concoctor of the species of anecdote usually denominated the "cock-and-bull."* A vestryman, we are told, complained to him, not many days ago, of a cow and fowls being kept in a stable behind his house, which disturbed his sleep so much as to interfere with his health. "There are many single cows so kept in Belgravia," and, continues the medical gentleman, very much as if he was writing of the buffalo or some other ferocious and terrible creature, "they say that a lonely cow is much more noisy than when with others." What with birds and what with cattle, if this account be true, Belgravia is rapidly becoming a fashionable prairie. It produces in large quantities the domestic barn-fowl, the Cochin-China, the cow, and very possibly other strange animals of the sort. Not many years ago there was an excellent lady who kept a cow in Brighton in her cellar. Like the cow in Belgravia, it was a "lonely

* The author may observe that the complaint was entered by the Inspector in the Nuisances Complaints' Book, which contains stern realities.

cow." Its plaintive lowings might be heard below the dining-room floor of the adjacent house, more especially on Sunday afternoons. The unearthly position of the sound was, perhaps, somewhat inconvenient to the neighbours; but it was generally felt, that if the cow did not object to living in the cellar, it would ill-become outsiders to interfere. The medical gentleman's friend seems to have had a still smaller grievance; for the metropolitan cow was not a subterranean nor even an intramural cow: it lived in the stable as any respectable horse might have done; and the noise of a cow in a stable cannot, at the worst, be much louder than the noise of a horse under similar circumstances. The medical gentleman assures us, however, that it is not the vestryman's vivid imagination which has lent terror to the sound—he himself has heard the cow making a "terrible" noise. Under these circumstances, it is difficult to console him. For the vestryman's sake, we can only hope that the cow will not have a calf. The objection entertained by the vestryman does not appear, like the former objection to the cock, to be of a literary character. The literary gentleman hates being interrupted at those moments which, in the language of the poet, he passes "sleepless himself to give his readers sleep." The vestryman is one of those who cares less about giving sleep than about enjoying it. The cow interferes not with his waking but with his sleeping thoughts—it recalls him from those regions of fancy where rates are never known, to an existence of gas companies and water-rates, where collectors are for ever calling, and pipes habitually are out of order. This is a complaint, accordingly, of a more tangible description. The literary author may easily be answered by the simple observation that he does not take the cock from the right point of view.

Cocks to a healthy mind appear calculated rather to stimulate than to impede imaginative wit; but to a vestryman, for whom the country has no charms, the cow is doubtless an inconvenient and unsatisfactory neighbour during the night; and if vestrymen ever think, the thought that the cow is lonely doubtless adds one more ingredient to the lamentable feelings with which its lowing fills him. There is only one thing to be said, namely, that that awful animal the cow is in all probability less awful than the pig. So long as Belgravia confines itself to vaccine torture, the vestryman ought to thank his stars, and to comfort himself with the consideration, that in some respects a Belgravian vestryman is not so badly off as a Surrey farmer. Cows in an adjacent stable, and Cochin-China hens on the next verandah, are possibly calculated to be at times a nuisance; but cows and hens are innocuous compared to some quadrupeds that might occupy their room.

The following Cock-crowing case is abbreviated from the "*Croydon Journal*," Wednesday, May 27th, 1863. It was tried in the County Court at Kingston-on-Thames, before J. F. Fraser, Esq.

COCK CROWING CASE IN THE COUNTY COURT.

Mr. Hallett, Solicitor, of Oak Cottage, and Mr. Maddock, Solicitor, of Penrhyn Villa, are, it seems, next door neighbours in the Victoria-road, Surbiton. . . . Barristers were engaged by both sides, Mr. Prentice for Mr. Hallett, and Mr. Pollock for Mr. Maddock. Mr. Hallett has lived sixteen years in his villa, and has a lease of it for eighty years, which threatens to be disturbed by the cries of this dreadful bird.

Mr. Prentice said—

He was sorry they had not given notice to produce the cock. It was one of the finest he had ever seen, of the Dorking breed, and he was afraid to say how high it stood. It began crowing at a quarter-past or half-past 3 in the morning—a very early bird indeed (*laughter*). It awoke the children up, and it was anything but a laughing matter to the family, among whom there had been a great deal of illness, and it really was a matter of surprise that defendant, as a neighbour, had not done something to remedy the inconvenience.

Three, four notes were disregarded, and then plaintiff sought peace and protection from the County Court. His Honor suggested an arrangement. Plaintiff might get some other cock (*laughter*). Mr. Pollock said that defendant was not animated by any malicious feelings, and was quite ready to adopt this suggestion, or to kill the cock (*sensation*). Mr. Prentice said this agreement would hardly meet the case, as another might be got equally obnoxious (*laughter*). His Honor said he could not go to the length of giving an injunction to defendant not to keep poultry at all. Therefore he said get another cock (*loud laughter*). In every farm-house poultry was kept, and people who lived in them tolerated these noises. In case of illness, good feeling would dictate that they should be removed for a time. Mr. Prentice then called Mr. Henry Hughes Hallett, of Lincoln's-inn-fields, Attorney, who put in a plan of the premises, and continued—

My house is only one story high ; the bed room window sill is 14 feet from the ground on my side, but only 12 feet from the ground of his poultry-yard. The poultry-yard adjoins my house ; the fowl-house is 22 feet from my house. The cock is 3 feet high when it stands up ; it is as high as an umbrella (*roars of laughter*). I never saw

or heard such another. I can hear it in church (*laughter*). I hear it crowing incessantly from a quarter-past 3 to half-past 9, till I leave for business (*renewed laughter*). The children sleep in the bed room nearest to the poultry-yard. I first hear it about a quarter-past 3. Sun-rising makes no difference. It wakes me, and keeps me from getting any rest at all. It does seriously annoy me; it affects me generally, and makes me nervous. One of my own children and a little niece have been ill. This cock prevented them from sleeping. In January 1863, one of my nieces was very ill.

Mr. Hallett next referred to several letters he had written to defendant complaining of the annoyance, and said he laid his damages at £5, though the amount was not the object of the action. He suggested the removal of the fowl-house to another part of defendant's premises. In cross-examination he said such a removal would materially abate the nuisance, and he should then be quite satisfied with it. He asserted that it was the largest cock he ever saw, including Cochin-China cocks. Other neighbours kept fowls, but he did not hear them. Mrs. Hallett said she first heard the cock between a quarter-past 3 and 4 every morning. It kept her awake, and made her very uncomfortable. It crowed forty times in a quarter of an hour, and its voice was very hoarse (*loud laughter*). Louisa Watson spoke as to the size of the bird, and to the annoyance it was to a niece of plaintiff, who was ill. His Honor did not see that the size of the bird had anything to do with the matter. He was not aware that the note of a bird bore proportion to its size. He once had a very small parrot he was obliged to part with, in consequence of the noise it made (*laughter*). Wm. John Sloane, night policeman, had been stationed near the premises.

Had never seen the cock, but had heard him crow. Have heard him crow as early as a quarter-past 2. He crows very loudly, and I have heard him at the railway station. On the following morning, the 17th March, after my attention was called, I heard him crowing incessantly from about seventeen till twenty-eight minutes past 3, from 4.5 to 4.10, from 4.35 to 4.44, and from 5 to 5.15 (*laughter*).

Mr. J. G. Windsor, House Agent, said the cock would be a decided deterioration to any house either for letting or selling. Other witnesses were called, and spoke to the annoyance the cock occasioned. Mr. Pollock, for the defence, said a policeman generally liked to discover what he was in search of, and such was the case in this matter, and had the child been very ill, it would have been removed. Defendant was prepared, not only to remove the cock, but to kill it. They could not place it anywhere else in the grounds, and if they did so, it would be a nuisance to other persons. Having quoted a number of cases, he called the defendant, who said he had bought the freehold of the property he resided in—

I have kept fowls since about last December. They were netted, so that they could not get out of the poultry-yard. Since Mr. Hallett complained, the trap-door has been kept shut, so that the cock cannot get out of the fowl-house in the morning till my servant comes. It was made a present of to me. It is of pure Dorking breed; that is not the largest breed. I have heard other cocks crow as loud as this one (*a laugh*). I am prepared to get rid of it. I will make a present of it to Mr. Hallett, if he likes (*great laughter*). If I could remove the fowl-house to where he says, I would; but as I have arranged my premises, I cannot. It is all lawn and pleasure garden there.

Benjamin Poulter, who was rather deaf, corroborated, and said the fowl did not crow particularly loud. It crowed in the fowl-house.

His Honor—Does it crow to get out? Perhaps letting it out might produce a change in its tastes (*laughter*).

Cross-examined—I never said this to Mr. Hallett, “He is a nasty brute; he is a regular nuisance.” I once said, “Master must get rid of him.” I said that because Mr. Hallett complained. There was not a great deal of ground for his complaint. I should not mind having it just under my bed room, it would not disturb me; I sleep very sound (*laughter*).

Mr. Napier, Engineer, of London—Had resided eleven or twelve years on the opposite side of Victoria-road to Mr. Hallett. Heard other cocks in the neighbourhood besides this. It did not disturb him (*a laugh*).

Re-examined—Heard it sometimes in the day; it had a good clear crow. Was a little deaf. Lived thirty yards away.

Mr. Prentice replied, urging that the defendant's witnesses had proved his case. His learned friend had actually called two deaf witnesses (*laughter*), both of whom could hear the cock.

His Honor gave the following exhaustive decision—

In such a neighbourhood as Surbiton nothing can be more common than for persons, living in close contiguity, to keep domestic fowls for their own use and convenience, even at a less distance from their neighbour's dwelling-house than that which exists in the present case. The doing so, under ordinary circumstances, is the usual and reasonable manner in which such property, in such a neighbourhood, is enjoyed. The practice must frequently occasion some annoyance to a neighbour; but the annoyance

arising solely from the ordinary crowing of cocks, close to the dwellings of men, is tolerated by general consent, because it is almost a necessity arising from the peculiar habits and singularly useful qualities of these birds, called by Pliny, in his *Natural History*, "our nocturnal watchmen, whom nature created to call men to their labours, and to break their sleep," and also, because it is felt that it cannot be avoided, except by unduly interfering with the general right that a man has of using his own property in the manner most agreeable and convenient to himself; and except by greatly abridging a right, which has been very generally and very extensively exercised from time immemorial, with results, upon the whole, highly beneficial to the community at large. Had there, therefore, been nothing more to complain of than the discomfort to the plaintiff's family, caused by the ordinary 'shrill clarion' of the cock, at a short distance from his house, I should have come to the conclusion that, although there had been a lessening of his comfort, there had been no actionable nuisance. A contrary decision would, in my opinion, be at variance with the social economy of every village in the kingdom, and open a fruitful source of doubtful and vexatious litigation. The present appears to me to be an exceptional case. It is not simply that the rest of the plaintiff's family is disturbed, when

"The cock, that is the trumpet of the morn,
Doth with his lofty and shrill sounding throat
Awake the god of day."

It is not simply that his family is kept awake

"While the cock with lively din
Scatters the rear of darkness thin."

It is not simply that the plaintiff may complain of the defendant that

“ Within his homestead, lived without a peer,
 For crowing loud, the noble chanticleer;
 So high this cock, whose singing did surpass
 The merry notes of organs at the mass.”

But the plaintiff's grievance is, that this magnificent, but extravagantly canorous Dorking cock is not the harbinger of the morn, but the almost incessant disturber of the night; that he does not, after the ordinary manner of cocks, crow at midnight, and then at daybreak give, in his loudest strains, the classical three shrill signals of approaching morn, but that he is restless during the whole night; crowing, in winter, between a quarter and half-past 3 in the morning, and continuing so to do at short intervals, and for long periods, occasionally revelling in his vocal powers by a succession of forty crows in a quarter of an hour, allowing little respite to himself and scant repose to the plaintiff's family. Such is not the normal crowing of the cock, that universal consent privileges, and which the plaintiff's family must bear with as best they may; but in the position in which the bird is placed, it is an excessive and abnormal crowing, which the plaintiff ought not to be called upon to endure, but which ought to be suppressed. It is a grievance analogous to those suggested by the Chief Baron, in the case of *'Bamford v. Turnley, L.J., 62, Q.B., 292,'* where he observes, 'That may be a nuisance which is permanent and continued, which would be no nuisance if temporary and occasional only. A clock striking the hour, or a bell ringing for some domestic purpose, may be a nuisance if unreasonably loud and discordant, of which the jury alone must judge; but although not unreasonably loud, if the owner, from some whim or caprice, made the clock strike the hour every ten minutes, or the bell ring continually, I think that a jury would be

justified in considering it to be a very great nuisance.' I lay no stress on the extent of the defendant's premises; the greater comparative extent of his premises may secure him from some inconveniences that others, less fortunately circumstanced in that respect, may be obliged to submit to, but it confers no additional rights on the plaintiff; nor do I attach any importance to the delicate state of health of some of those who constituted the plaintiff's family. If the general state of their health requires a greater degree of quiet than is likely to prevail under the present arrangement of the defendant's premises, a change in that respect may be conceded as a favour, but cannot, in my judgment, be demanded as a right. It is to be regretted that the defendant did not pay some attention to the plaintiff's repeated remonstrances on the subject. He might, without much trouble to himself, have ascertained, by a very simple experiment, whether the crowing of his splendid cock, at the same distance from his own house, would to its inmates be merely an ordinary rural occurrence, or whether, from its anomalous crowing, it would be an intolerable nuisance. I cannot but think that the result of the experiment would have led the defendant to the conclusion that the plaintiff was entitled to some relief, and an effort in that direction might possibly have prevented the present litigation. My judgment is, therefore, for the plaintiff, damages £5, counsel, attorney, and witnesses allowed.

From the "TIMES," September 12th, 1864.

MARYLEBONE.—Francis Novara, a native of Parma, was charged before Mr. Mansfield with refusing to desist

playing an organ when requested to do so and leave the neighbourhood. After hearing the evidence of Mr. George Fox, a merchant, residing at 31, Gloucester-place, Paddington, Mr. Mansfield said:—"This is a case in which the law must be enforced. This gentleman has his child ill, and has been subjected to great annoyance and inconvenience through a continuation of such noises, which are encouraged by other people. They get such a person as the wretched prisoner before me now and cause him to continue his nuisance to the annoyance of respectable people. In this case I must inflict a fine, and the folks who get these men into their trouble must be taught that their neighbours cannot be subjected to such noises in front of their houses, especially in the case of sickness. I shall inflict the full fine in this case—that is 40s.; in default of payment Novara to be imprisoned and kept to hard labour for one month, and I shall continue to put the law in full force in every case brought before me where there is conviction. Mr. Babbage has written a book, in which he shows he has been made to suffer by this abominable nuisance. This gentleman there states he underwent an operation, and the doctors deemed quietude one of the most essential things for his safety, yet some fiend engages a brass band to play within a few doors of Mr. Babbage's house, at two o'clock in the morning—just at the time when the doctor was endeavouring to get his patient to sleep. Anything more infamous I cannot conceive than for people to make themselves so obnoxious; they must be devoid of all feeling." The fine was paid.

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